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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/745,672	12/21/2000	Masaharu Ono	P/2007-73	1960
7590	03/25/2005		EXAMINER	
STEVEN I. WEISBURD, ESQ. DICKSTEIN SHAPIRO MORIN & OSHINSKY LLP 1177 AVENUE OF THE AMERICAS - 41ST FLOOR NEW YORK, NY 10036-2714			FLETCHER, MARLON T	
			ART UNIT	PAPER NUMBER
			2837	

DATE MAILED: 03/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	09/745,672	ONO ET AL.
	Examiner Marlon T. Fletcher	Art Unit 2837

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 17 December 2004.

2a) This action is FINAL. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-29 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 1-29 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some * c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) Notice of References Cited (PTO-892)
2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____

4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____

5) Notice of Informal Patent Application (PTO-152)
6) Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-5, 7, 15-23 rejected under 35 U.S.C. 102(b) as being anticipated by Kawashima (5,281,756).

As recited in claims 1-5, 15, Kawashima discloses a musical tone signal generation apparatus including at least one performance operator (P0-P4) which is physically separated from a main unit to issue tone-generation instructions for generation of musical tones in response to manual operations made by a user (figure 1; column 7, lines 11-18), said musical tone signal generation apparatus comprising: a musical tone signal generator (17) for generating musical tone signals; a storage (12) for storing performance data (column 8, lines 52-57); an automatic performance controller for playing automatic performance by controlling the musical tone signal generator based on the performance data stored in the storage (column 21, lines 20-66); and a manual performance controller for controlling the musical tone signal generator to generate the musical tone signals in response to the tone-generation instructions output from the at least one performance operator being manually operated by the user, the tone-generation instructions defining tone color data assigned to the at least one performance operator (column 7, lines 6-11; and column 9, lines 11-15).

Kawashima discloses a plurality operators (P0-P4), so therefore, it is inherent that a plurality of users could operate the operators, wherein each pad defines tone color data (column 7, lines 19-35). Kawashima further discloses (claim 2) first and second manual operable members ((P0-P4) and (15)), each of which is manually operated by the user to control the musical tone signal generator in accordance with a prescribed function, wherein the first manual operable member is provided for the main unit while the second manual operable member (P0-P4) is provided for the performance operator. Kawashima further discloses (claim 4) a tone color assignor for assigning tone colors, designated by the tone color data of the plurality of parts, respectively to the plurality of performance operators (column 7, lines 19-24; and column 8, lines 34-45). Kawashima discloses (claims 3 and 5) a storage which is provided for a musical tune constructed by a plurality of parts, so that the storage stores performance data with regard to at least a prescribed part within the plurality of parts and tone color data with regard to all of the plurality of parts (column 8, line 52 through column 9, line 15).

As recited in claims 7, 17-23, Kawashima discloses a musical signal generation apparatus, further comprising an informer (sound system 19) to inform the user of issuance of a tone-generation instruction being issued by the performance operator in response to a manual operation.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 6 and 16, are rejected under 35 U.S.C. 103(a) as being unpatentable over Kawashima in view of Takabayashi (6,031,174).

Kawashima is disclosed above. Kawashima does not disclose a loader.

However, as recited in claims 6 and 16, Takabayashi discloses a musical tone signal generation apparatus, further comprising: a loader (column 8, line 34 through column 9, line 15) for loading the performance data into the storage from an external; and an assignment activator for automatically activating the tone color assignor to proceed to assignment of the tone colors to the plurality of performance operators.

It would have been obvious to one of ordinary skill at the time of the invention to utilize the teachings of Takabayashi with the apparatus of Kawashima, because the teachings allow performance data to be input into apparatus from an external device.

5. Claims 8-14 and 24-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kawashima.

Kawashima is discussed above (claims 9-14 and 24-29). Kawashima discloses (claim 24) a musical tone signal generation apparatus comprising: a main unit (or main body); at least one performance operator that is separated from the main unit; a sensor installed in the performance operator, wherein the sensor detects an impact applied to the performance operator so as to convert it to an electric signal; and a musical tone signal generator for generating a musical tone signal based on the electric signal output

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from the sensor, so that the sound system generates a musical tone based on the musical tone signal.

As recited in claims 9 and 29, Kawashima discloses a musical tone signal generation, wherein each of the plurality of performance operators includes at least a pad whose surface is to be struck by each user to issue a tone-generation instruction (column 7, lines 6-18).

As recited in claim 10, Kawashima discloses a musical tone signal generation apparatus, further comprising a control panel (15) that is mounted on the main unit to provide manual controls for the automatic performance and the manual performance.

As recited in claim 11, Kawashima discloses a musical tone signal generation apparatus, further comprising a sub panel that is mounted on the performance operator to provide manual controls for the automatic performance (column 21, lines 21-31).

As recited in claims 12 and 13, Kawashima discloses a musical signal generation apparatus, further comprising an informer (sound system 19) to inform the user of issuance of a tone-generation instruction.

As recited in claim 14, Kawashima discloses a musical tone signal generation apparatus, wherein the informer is a light emitter that radiates light in response to issuance of a tone generation instruction (column 7, lines 2-5).

Kawashima discloses a sound system. Kawashima does not disclose a plurality of speakers.

Official Notice (claims 8, 24, 26) is taken with respect to it being well known in the art that sound systems for producing musical tones corresponding to the musical tone

signals of the automatic performance or manual performance, wherein the plurality of speakers are arranged on the main unit in connection with the plurality of performance operators respectively.

It would have been obvious to one of ordinary skill in the art at the time of the invention was made to use a plurality of speakers, since sound systems are known to comprise a plurality of speakers.

With respect to claims 25, Kawashima discloses the claimed invention except for the circular and conical shape. It would have been an obvious design choice to provide a circular or conical shape main unit, since such a modification would have involved a mere change in the size of a component. A change in size is generally recognized as being within the level of ordinary skill in the art. *In re Rose*, 105 USPQ 237 (CCPA 1955).

With respect to claim 27, Kawashima discloses the claimed invention except for the portability. It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the apparatus portable, since it has been held that making an old device portable or movable without producing any new and unexpected result involves only routine skill in the art. *In re Lindberg*, 93 USPQ 23 (CCPA 1952).

Response to Arguments

6. Applicant's arguments filed 12/17/2004 have been fully considered but they are not persuasive.

The applicant argues that the references do not teach the invention overall configuration. However, the claim limitations are met by the reference. The applicant also argues the combination of references. The examiner disagrees. The applicant's arguments are not persuasive. The rejections remain. The additional amendments are also met by the references as discussed above.

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marlon T. Fletcher whose telephone number is 571-272-2063. The examiner can normally be reached on M-W, F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Martin can be reached on 571-272-2107. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Marlon T. Fletcher
Primary Examiner
Art Unit 2837

MTF
March 21, 2005